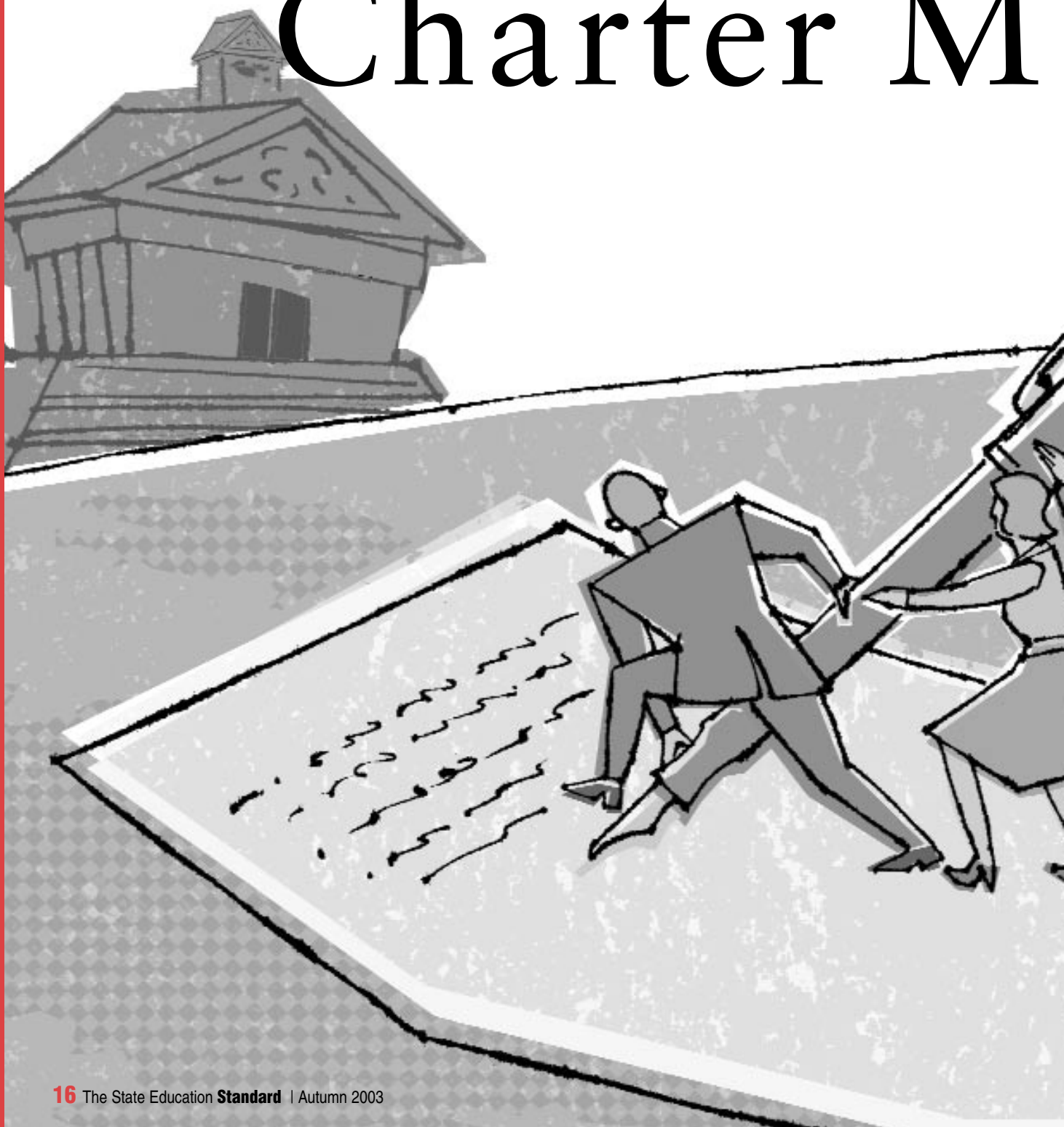


Seizing the Charter M



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Why State and Local Education Agencies Should be More Active Charter School Authorizers

by Otho Tucker and William Haft

Charter schools were conceived more than ten years ago in Minnesota with the recognition that one educational size or approach does not fit all—neither all educators nor all parents and students. Charter proponents recognize many benefits of the charter idea, including:

- the creation of new public education options for underserved children and communities;
- opportunities for educators to work in public schools that they help create, define, and/or manage;
- opportunities for parents to make decisions about the public school that they think best meets their children's educational needs; and
- models for school governance and accountability that can be applied to public education more generally.

Since marking its tenth anniversary, implementation of the charter school idea has received increasing attention from policymakers, the press, and charter school supporters and opponents alike. Supporters celebrate the growth and increasing popularity of charter schools from their humble Minnesota origins in 1992 to their current national stature. Opponents around the country have variously attempted to make charter schools an election issue, a pariah, or a scapegoat (for traditional public schools' financial woes).¹ Some press are still trying to make sense of what charter schools *are* while others are delving into the important questions of what we should expect charter schools to *do* (and whether they are doing it). In this context of mixed messages and perceptions, policymakers understandably struggle to decide whether charters need a longer leash on which to explore or a severe yank of the disciplinary chain. Predictably, political compromise often produces both, simultaneously.²



The attention charters are receiving—perhaps disproportionate even to their current numbers—may derive from an implicit recognition on all sides that, unlike a multitude of other efforts to improve public education over the decades, charter schools are here to stay. The schools tend to have high parental satisfaction and waiting lists continue to be long. Studies from a number of states are showing strong charter school performance. Most policy conversations about charters now focus not on “whether” but “how.” In other words, the charter school concept as an educational form is coming of age.

In that context, we can say that charter schools have made a good start. Despite a trying infancy, they have not only survived, but have also lit numerous beacons of excellence and have inspired many people who would otherwise be doing something else to commit (or recommit) themselves to public education. Charters are only just reaching adolescence and their impact, while undoubtedly substantial for the hundreds of thousands of students they now serve, has been limited with respect to the larger public education system.³ Having made it this far, the question is, what will charters look like when the movement grows up?

The answer to this question depends in large part on the core charter constituents—parents, children, and school developers. Yet to look only at these groups misses an important piece of the charter calculus: **charter school authorizers**. Although the quality of a particular school depends primarily on the effectiveness of individual developers and operators, the quality of the broader movement depends, in large part, on the effectiveness of the authorizers who license and oversee these schools.

Charter School Authorizers

The mantra of the charter movement has been the bargain of “autonomy in exchange for accountability.”⁴ Initially, charter school accountability focused on the role of private individual decisionmakers—whether inspired by liberal “grassroots” principles of educational opportunity⁵ or conservative, market-based notions of consumer choice and competition as the engine for educational reform.⁶ Yet there has always been an important public accountability component to charter schools that individual decision-making cannot provide.

A. Authorizer Responsibilities

Charter school authorizers (also called “sponsors” in some states) are responsible for the public accountability of charter schools.⁷ Local education agencies (i.e., school districts) are by far the most numerous authorizers, but many states have given chartering authority to other entities, including state boards or departments of education (in Alaska, Arizona, California, Connecticut, Delaware, Massachusetts, Minnesota, New Jersey, New Hampshire, and North Carolina), special purpose state agencies (Arizona and Washington, DC), municipal entities (Indiana

and Wisconsin), colleges and universities (Michigan, Minnesota, New York, North Carolina, Ohio, and Wisconsin), and private nonprofit organizations meeting certain criteria (Minnesota and Ohio). Authorizers are charged with ensuring that charter schools (1) fulfill their public responsibilities, including open and nonselective enrollment, responsible use of public funds, compliance with civil rights and other applicable laws, and academic fulfillment of federal and state requirements; and (2) meet any additional terms of their performance contracts.

Public oversight of charter schools includes the following basic authorizer functions:⁸

Application Decisionmaking. Application decisionmaking requires the authorizer to develop and implement a process by which to advertise, collect, evaluate, and approve or reject proposals to develop and operate charter schools. The structure of the application drives what the authorizer can accomplish through chartering. A carefully designed application process can help generate the number, kind, range, and quality of applications that the authorizer is seeking.

Charter Contract. The charter contract is a legal document granting permission to a group or individual to own and/or operate a public school consistent with all applicable state and federal requirements. The purpose, content, and format of charter documents vary widely among authorizers. As the public representatives on the other end of the charter bargain, authorizers need to consider the purpose of the contract, how it will be developed and used, its contents, how and when it might be amended, and which deviations from the contract require authorizer action. Authorizers also need to decide how high to set the bar for charter renewal, and where to set the “floor” for revocation.

Ongoing Oversight, Evaluation, and Intervention. Authorizers oversee charter schools in a variety of ways, but whatever the method, authorizers must balance the tension between fulfilling their public stewardship responsibilities and minimizing administrative burdens on schools. Therefore, authorizers have to consider the balance between compliance requirements and school autonomy. Excess in one direction can lead to procedural regulation that makes a mockery of the notion of autonomy, while moving too far in the other direction can enable abuse of public funds and public trust. This balancing applies to development of compliance requirements, gathering of information relevant to those requirements, and corrective action, as appropriate, when the school is not meeting requirements.

Renewal and Revocation Decisionmaking. Authorizers are responsible for making the “life or death” decision of whether to revoke a charter during its term or not to



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renew a charter at the end of the term. The ultimate question—“how good is good enough?”—goes to the heart of charter school accountability. To develop a reliable, objective answer to this question requires substantial planning from the time the charter is approved and ongoing collection of relevant information on which to base the decision. Moreover, the No Child Left Behind Act makes this assessment even more intricate by introducing layers of accountability that must be wedded to the particular performance terms and goals of the charter.⁹

B. Authorizer Opportunities

Charter school authorizing is a responsibility that local or state education agencies—**school system authorizers**—might prefer, at first glance, not to have. It is clear that providing public accountability for charter schools carries a new and challenging set of obligations for any authorizer. Moreover, charter school authorizing is often assigned to agencies—school districts in particular—that view charters as an accusation of failure on their part. Indeed, school districts, the entities most often assigned the authorizing responsibility, are generally among the most reluctant and least effective authorizers.¹⁰ This may not be surprising because charter schools typically are born out of dissatisfaction with existing public school options and have flourished in places where that dissatisfaction is most acute.¹¹ So rather than be surprised at an agency’s hesitation to create charter schools, one might fairly ask why educational agencies, including districts and state departments of education, *do* encourage chartering. What has prompted state and local agencies as diverse as the Chicago Public Schools, Massachusetts State Board of Educa-

tion, New York City Department of Education, and Chula Vista Elementary School District to embrace charters an important option in their educational portfolios?

The simple answer is that chartering can further a state or local agency’s educational, political, and financial goals. Research and experience are beginning to show state and district authorizers that they can serve needs through chartering that are not being fulfilled through traditional public schools. Following is a synopsis of some of the school system interests that chartering can serve.

Educational Effectiveness. There is a growing body of evidence indicating that students in charter schools, on the whole, are performing as well as students in traditional public schools and may be making learning gains at a faster rate than their public school counterparts. In particular, charter schools may be more successful in helping underperforming students make up lost ground. For example, the first national study comparing charter schools and neighboring traditional schools serving similar populations finds charters outperforming traditional public schools on test improvement.¹² Similarly, state-specific studies have shown charter schools outperforming traditional public schools in California¹³ and Connecticut.¹⁴

Economic Efficiency. It is well-documented that charter schools typically operate on fewer public dollars than traditional public schools. This difference is primarily due to little or no public funding for charter school facilities. In addition, charters demand a much less robust “central office” than do traditional public schools because they

place virtually all decisionmaking authority at the school level. Many charters address diminished public support with strong private fundraising. In this context, some districts (such as Los Angeles) that face growing student numbers and precarious education funding are looking to chartering as an efficient way to expand on the limited supply of public school seats.

Diversity and Innovation. From the beginning, the notion of “innovation” has been inextricably linked to the charter movement. The idea has been that charter schools can serve as laboratories for educational ideas that, if effective, can be applied to the public system as a whole.

Emphasis on innovation has, to some degree, served as a red herring for the charter movement. It tends to extol novelty for the sake of being “new” rather than for the better outcomes at which all innovation should aim. This emphasis has sometimes provided reluctant authorizers

schools.”¹⁸ In other words, if authorizers could immediately increase the number of charter schools by at least one-third, they would finally begin to meet the pent-up demand that has *already been expressed*. This does not even begin to address new demand that might be created once additional opportunities exist.

The ultimate indicator of demand is that most charter schools continue to be oversubscribed and a relatively small percentage have failed for financial reasons despite the fact that parents can choose to remove their child from a charter school at any time and for any reason. According to a 2002 report by the Center for Education Reform (CER), as of last year 6.7 percent of charters, once opened, had subsequently closed. Based on CER’s classification of reasons, the majority of closures could be broadly construed as business failures (inadequate enrollment, financial instability, etc.).¹⁹

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with an excuse to deny an application for a proposal that otherwise showed every promise of successfully addressing a school system need.

Despite claims to the contrary, there is both anecdotal and research-based evidence that charter schools *are* innovative and are helping to effect change in the larger school system. There are numerous accounts of school districts introducing a particular program, such as a Montessori elementary school or Advanced Placement options for high school students, soon after a charter school emphasizing the program proved to be popular. In fact, state-specific research indicates that charter schools, on the whole, are attaining legislative goals for innovation.¹⁵ Moreover, there is growing interest among school districts in applying the *governance and management* innovation of the charter idea—operational autonomy in exchange for performance-based accountability—to district systems. Relatively small school districts from Barnstable, Massachusetts to Chula Vista, California and large urban districts from New York City to Philadelphia to Chicago are exploring and beginning to implement this concept in varying ways.¹⁶

Parental Demand. Parental interest in and satisfaction with charter schools has been consistent and dramatic. Surveys of parents who have had the opportunity to enroll their children in charter schools consistently indicate satisfaction with their decisions.¹⁷ Reports of long waiting lists to attend charter schools are commonplace and the lists contain enough names to “fill at least 900 more

No Child Left Behind Interventions. NCLB requires that students at schools that miss their adequate yearly progress targets for two or more consecutive years must have the opportunity to transfer to higher-performing schools. School districts need to make options available for students at underperforming schools and high-performing charters schools, both existing and new, can be among the options.²⁰ In addition, chronically underperforming schools are subject to restructuring, which can include conversion to charter status. School district authorizers should be prepared to carry out such charter conversions effectively in order to fulfill NCLB accountability requirements.

Control. It is a little recognized paradox that school system authorizers can achieve greater control over public education outcomes by delegating operational control to charter schools. When an authorizer approves a school and develops a performance agreement, it can foster and guide development of any program that it believes will meet the needs of students in the system. Even the state and federal regulation that inevitably constrain this discretion usually give greater flexibility and decisionmaking authority to the agency as authorizer than to the same agency acting as traditional school district or department of education. The school system authorizer can foster and guide development of a particular program and of a governance structure that makes successful implementation of the program more likely. It can also foster development of a management environment

in which decisionmaking—including employment decision-making—is based, first and foremost, on meeting the terms of the charter. At all times the authorizer retains authority to intervene, as appropriate, based on fulfillment of the charter’s terms—including removing the school’s right to continue operating, if necessary. Nowhere else in public education is there such decisive authority regarding individual schools.

C. Authorizer Action

The typical image of a charter school authorizer is an office (or, too often, one individual assigned to overseeing charters “part-time”) waiting to be handed applications, to be persuaded that a proposed charter school should or should not be approved, and to be told whether a school is doing what it promised to do. In sum, the authorizer has typically assumed a *passive* place in the world of charter schools.

During the infancy of the charter idea, the authorizer was not recognized as a catalyst for charter school development. A decade later, however, we need to reassess our assumptions and expectations about the role of authorizers in the development of charter schools. As charter implementation approaches adolescence and adulthood, the rate of charter growth has slowed despite overwhelmingly positive parental appraisals and demand for expanded charter opportunities. It is understandable and predictable that a limited number of entrepreneurs will have the energy, will, desire, and skill not only to run a public school but to start one from scratch. One possibility for re-energizing the development of quality charter schools is to look for a new breed of entrepreneurs who have the capacity to take chartering “to scale.”²¹ Another complementary approach is to look to authorizers as catalysts for development of charter schools according to identified needs and demands of the community.

We believe that charter authorizers have a responsibility to take a more active approach to their chartering as a vehicle for public school improvement. This is especially true of school system authorizers, like local and state school boards, that are well-positioned to identify the needs of the school communities they oversee, and to use chartering as a tool to address those needs. There is evidence that a more active approach to authorizing correlates with more effective fulfillment of core authorizer responsibilities.²² In addition, active authorizing is likely to benefit the school system as a whole for the reasons discussed in the preceding section.

The active authorizer takes on greater responsibility and a greater investment in charter schools to foster attainment of identified educational ends. There are a number of ways in which authorizers can assume this role to benefit and enrich public education, as a whole. Following, briefly, are five ways that school system authorizers can begin to take a more active approach to authorizing:

Identify School System Needs. Authorizers can take stock of the existing school system by asking the question, “What educational opportunities are not currently (or sufficiently) available in my district or state that ought to be for the benefit of students, parents, and teachers?” The answer to this question may identify:

- needs of particular types of students such as at-risk students or special education students;
- demand or need for particular educational programs or types of schools that have proven effective for some students such as Advanced Placement programs, small high schools, or Montessori or Direct Instruction; and
- interest in comprehensive school models that have shown promise, such as EdVisions (developed in Minnesota) or High Tech High (San Diego) or the Knowledge is Power Program (KIPP) (initiated in Houston and New York).

Solicit development of effective school models. Once an authorizer has identified a particular need or demand it can help address that need through chartering. For example, numerous school districts are approaching developers of effective models like KIPP to discuss implementation in a traditional public school. Because of the flexibility inherent in the charter school model, it may be easier for an authorizer to encourage introduction of a particular model in the form of a charter school. Solicitation can also include incentives such as the award of planning and start-up grants, assistance with facilities, provision of ongoing/operating support services, and a welcoming political environment.

Issue Requests for Proposals. If an authorizer identifies a particular type of program or school model that it believes would benefit the community, and the program could be provided by a number of groups or organizations, the authorizer can issue a Request for Proposals (RFP) to encourage applications tailored to meet the identified need. Alternatively, an authorizer can issue a *general* RFP, inviting the submission of all kinds of charter applications and setting forth guidelines to assist the development of thorough, quality applications. A general RFP can identify priorities the authorizer may have for chartering (such as high schools), while welcoming all types of proposals.

RFPs can provide a structured application format, review process, and timeline for both applicants and the authorizer. This approach often produces higher quality applications within a manageable structure for evaluating and comparing multiple proposals.

Provide guidance or “technical assistance” beginning with the application process. It is important that authorizers maintain a transparent chartering process. To do so, authorizers must actively provide information to potential applicants regarding the structure and expectations of the process.

Many authorizers already take this approach, including the Chicago and Los Angeles school districts, and the state education agencies in Massachusetts and North Carolina.²³

Provide Facility Acquisition and Financing Information and Guidance. Finding and paying for an adequate facility continues to be one of the major barriers to establishment of successful charter schools. Very few states provide charters with any type of facilities financing or assistance. Therefore, applicants can easily find themselves with an approved application, a sound program, effective leadership, committed staff, strong community support, enthusiastic enrollment, and no place to call “school.”

An authorizer can ameliorate this common problem in a number of ways. The most obvious is to provide charter operators available space in existing school buildings, as California districts are required to do by law and New York City is doing as a matter of policy. Authorizers can be even more proactive, as the Chicago Public Schools was in 1996 when it capitalized a \$2 million revolving loan fund for charter school facilities, which is externally managed by the Illinois Facilities Fund and continues to assist the city’s charter schools.

In addition, local and national community development financial institutions and other lenders are increasingly engineering facilities financing solutions for charter schools. Short of the building itself, authorizers can provide charter developers with information about public and private options for facilities and facilities financing. A number of authorizers, including the North Carolina Department of Public Instruction, are actively supporting school developer efforts to clear the daunting facility hurdle.

Conclusion

The charter school movement begins and ends with the opportunity for school developers to design and implement an effective educational program and the opportunity for parents and children to decide whether that program suits their needs. Responsibility for the success or failure of any individual charter school resides, first and foremost, with the school’s developers and operators. But authorizers have a great deal of responsibility for the effectiveness of charter schools as a public education model. As gatekeepers, they can bring improved educational options to their communities while ensuring that only those school developers who demonstrate reasonable likelihood of success receive the opportunity. As overseers, they have an obligation to ensure that schools are publicly accountable for fulfilling the terms of the charter. And as active agents for school reform, authorizers can use chartering as an indispensable, practical strategy for educational improvement.

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1. For example, in Ohio, a coalition led by the Ohio Federation of Teachers conducted a remarkably unsuccessful issue advocacy campaign against charter schools leading up to the 2002 elections. In the District of Columbia, school officials have asserted that charter schools have no impact on how the district operates its traditional schools – despite knowing that more than 15 percent of District students have chosen to attend charters. In New York, school officials have recently renewed efforts to blame charters for financial woes despite the fact that New York’s charters receive less funding per pupil than traditional schools.
2. For example, the cap on charters in Chicago was recently lifted at the price of restricting the flexibility in teacher hiring. In California, the legislature has been seriously considering increasing the types of charter authorizers at the same time that it is regulating charter schools more heavily.
3. Justin Blum, *Staying the Course, Despite Competition*, Washington Post (June 20, 2003).
4. The term “autonomy” has recently morphed to “flexibility” under the Bush Administration’s watch.
5. Joe Nathan, *Charter Schools* (Jossey-Bass 1996), p. 11.
6. Bruno V. Manno, et al., *Charter Schools in Action: Final Report*, Hudson Institute (1997); William Haft, *Charter Schools and the Nineteenth Century Corporation: A Match Made in the Public Interest*, 30 Arizona State Law Journal 1023, 1057-60 (Winter 1998).
7. For an excellent overview of authorizer roles and responsibilities, see Margaret Lin & Greg Richmond, *Putting the “Public” into Charter Schools: The Important Role of Charter School Authorizers*, ECS Governance Notes (December 2001). For a more detailed discussion, see Bryan C. Hassel & Paul Herdman, *Charter School Accountability: A Guide to Issues and Options for Charter School Authorizers* (Annie E. Casey).
8. Adapted from a draft of *Critical Design Issues for Charter School Authorizers* (National Association of Charter School Authorizers, Feb. 2, 2003) available online at www.charterauthorizers.org.
9. For a discussion of the challenges of implementing No Child Left Behind in the charter school context, see Paul Herdman, et al., *Charter Schools and the New Federal Accountability Provisions*, Charter Friends National Network (March 2002).
10. Louann Bierlein Palmer & Rebecca Gau, *Charter School Authorizing: Are States Making the Grade?* Thomas B. Fordham Institute (June 2003), p. 18.
11. Washington, D.C. and Kansas City, Missouri are jurisdictions with the highest percentage of public school students attending charters—more than 15% in each case. See Jay Matthews, “Charter Schools Keep Public School Enrollment Up,” *Washington Post* (July 15, 2003), available online at www.washingtonpost.com/wp-dyn/articles/A59319-2003Jul15.html.
12. Jay P. Greene, et al., *Apples to Apples: An Evaluation of Charter Schools Serving General Student Populations*, Manhattan Institute for Policy Research (July 2003).
13. Margaret E. Raymond, *The Performance of California Charter Schools*, CREDO (May 2003).
14. Gary Miron & Jerry Horn, *Evaluation of Connecticut Charter Schools and the Charter School Initiative: Final Report* (September 2002) [hereinafter, *Evaluation of Connecticut Charter Schools*], p. 110.
15. *Evaluation of Connecticut Charter Schools*, pp. 70-71; Nelson Smith, *Catching the Wave*, p. 5.
16. The Education Commission for the States has published a series of papers on the concept of “charter school districts” that elaborate on this idea of applying charter school management and oversight principles to traditional public school systems. Available online at www.ecs.org/ecsmain.asp?page=/html/IssuesK12.asp.
17. See, for example, Mark Schneider & Jack Buckley, “Making the Grade: Comparing DC Charter Schools to Other DC Public Schools” (2001); Greg Vanourek, et al., “Charter Schools As Seen by Those Who Know Them Best: Students, Teachers, and Parents,” in *Charter Schools in Action*, Hudson Institute (June 1997); “Poll Finds High Satisfaction Rate Among Charter School Parents; Improvement in District Schools, Pioneer Institute” (Oct. 2000), available online at www.pioneerinstitute.org/pdf/piodrcr9.pdf.
18. Bruno V. Manno, *Yellow Flag*, Education Next (Winter 2003).
19. *Charter School Closures: The Opportunity for Accountability*, Center for Education Reform (October 2002), available online at edreform.com/charter_schools/closures.pdf.
20. U.S. Department of Education, *The Impact of the New Title I Requirements on Charter Schools, Non-Regulatory Guidance*, Draft (Mar. 24, 2003), at § B.1.
21. See Bryan C. Hassel, *Friendly Competition*, Education Next (Winter 2003).
22. *Charter School Authorizing: Are States Making the Grade*, p. 19-20 (concluding that “States with higher grades also have more ‘proactive’ authorizers when it comes to providing technical assistance and charter advocacy”).
23. For information about procedures followed by these and other active authorizers, see the Illustrations and Case Studies contained in *Critical Design Issues for Charter School Authorizers*, National Association of Charter School Authorizers, available online at www.charterauthorizers.org.